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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BOARD OF TRUSTEES OF THE
ELECTRICAL WORKERS HEALTH AND
WELFARE TRUST,

Plaintiffs

vs.

VIRGINIA BUSTELOS,

Defendants.

Case No. 2:17-cv-03058-GMN-BNW

**ORDER GRANTING MOTION TO
WITHDRAW MOTION FOR DEFAULT
JUDGMENT AND MOTION TO DISMISS
CASE WITHOUT PREJUDICE**

Before the Court are the Plaintiff's, Board of Trustees of the Electrical Workers Health and Welfare Trust ("Trust Fund"), Motions to Withdraw Motion for Default Judgment and to Dismiss Case Without Prejudice. The Court, having considered the Plaintiff's Motions, being fully advised, and good cause appearing, now provides a brief procedural history and makes the following order.

The Trust Fund filed its Complaint on December 13, 2017. (ECF No. 1.) The Trust Fund served Defendant Virginia Bustelos ("Bustelos") via publication on April 26, 2018. (ECF No. 13.) Bustelos failed to respond to the Complaint, and default was entered against Bustelos on June 29, 2018. (ECF No. 15.)


On August 21, 2018, the Trust Fund filed a Motion for Default Judgment against Bustelos. (ECF No. 16.) After reviewing the Motion for Default Judgment, the Court set a hearing for March 14, 2019 (the “Hearing”). The Court requested that the Trust Fund address the Ninth Circuit Court of Appeals precedent contained in *Bilyeu v. Morgan Stanley Long Term Disability Plan*, 683 F.3d 1083 (9th Cir. 2012), and *Oregon Teamster Employers Tr. v. Hillsboro Garbage Disposal, Inc.*, 800 F.3d 1151 (9th Cir. 2015), specifically explaining whether the Trust Fund’s requested relief was “appropriate equitable relief” under 29 U.S.C. § 1132(a)(3)(B). (ECF No. 17.)

In light of the above cited precedent, counsel for the Trust Fund appeared at the Hearing and made an oral motion to withdraw the Motion for Default Judgment, and an oral motion to dismiss the case without prejudice.

IT IS HEREBY ORDERED that the Trust Fund’s Motion to Withdraw the Motion for Default Judgment is **GRANTED**.

IT IS FURTHER ORDERED that the Trust Fund’s Motion to Dismiss Case Without Prejudice is **GRANTED**.

DATED this 10 day of June, 2019.



Gloria M. Navarro, Chief Judge
UNITED STATES DISTRICT COURT

Respectfully submitted by:

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